



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF D-C-O-M-, LLC

DATE: APR. 5, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a polystyrene foam product manufacturer, seeks to employ the Beneficiary as an ERP lead. It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigration classification. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1152(b)(2). This "EB-2" classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner had not demonstrated its ability to pay the proffered wage. The Director also concluded that the record did not establish, as required, that the Beneficiary possessed the minimum education in the field of study required on the labor certification for the proffered position.

On appeal, the Petitioner submits a brief and additional evidence. The Petitioner asserts that the evidence is sufficient to establish its ability to pay to pay the proffered wage and establishes the Beneficiary has the minimum education required on the labor certification.

Upon *de novo* review, we will sustain the appeal.

To be eligible for approval, a beneficiary must have all the education, training, and experience specified on the labor certification as of the petition's priority date, which is the date the underlying labor certification application was accepted for processing by the Department of Labor (DOL). See 8 C.F.R. § 204.5(d); *Matter of Wing's Tea House*, 16 I&N 158 (Acting Reg'l Comm'r 1977).

Here the labor certification specifies that the position requires a minimum of a bachelor's degree in engineering, computer science, or any related field plus five years of experience. The Director denied the petition finding that the Beneficiary's field of study did meet the labor certification requirements. On appeal, the Petitioner contends that the Beneficiary's education is sufficient to meet the minimum educational qualifications. After reviewing the materials submitted on appeal, we agree. The Beneficiary has the foreign equivalent degree of a U.S. bachelor's degree in engineering, computer science, or a related field, and therefore has the minimum education required by the terms of the labor certification.

Matter of D-C-O-M-, LLC.

The Director also denied the petition finding that the Petitioner had not established its ability to pay the proffered wage of \$125,000 from the priority date of the petition, June 23, 2016, until the Beneficiary obtains lawful permanent residence. *See* 8 C.F.R. § 204.5(g)(2). On appeal, the Petitioner asserts that it has submitted sufficient evidence to demonstrate its ability to pay the Beneficiary the proffered wage. After a thorough review of the evidence, including materials submitted on appeal, we find that the Petitioner has established its ability to pay the proffered wage, as required.

ORDER: The appeal is sustained.

Cite as *Matter of D-C-OM-, LLC*, ID# 998111 (AAO Apr. 5, 2018)